

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JIM MOCK, et al.

Plaintiffs,

v.

CHANDELEUR HOMES, INC., et al.

Defendants.

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Case Number: 2:06-cv-00395-MHT

**PLAINTIFFS' RESPONSE TO DEFENDANT CHAMPION ENTERPRISES,
INC.S, MOTION TO DISMISS OR, IN ALTERNATIVE, MOTION FOR A
SUMMARY JUDGMENT**

COMES NOW, the Plaintiffs by and through their undersigned counsel of record and hereby responds to Defendant, Champion Enterprises, Inc.'s Motion to Dismiss or, In Alternative, Motion for Summary Judgment, and state the following:

1. On March 17, 2006 the Plaintiffs filed their complaint.
2. On May 2, 2006 the Defendant removed this action to this Honorable Court.
3. On May 11, 2006 Defendant, Champion Enterprises, Inc., filed its Motion to Dismiss or, in Alternative, Motion for Summary Judgment.
4. Pursuant to Rule 56(f) Federal Rules of Civil Procedure, this Court may either deny summary judgment or continue the hearing on summary judgment if additional discovery is needed. In the present case, no discovery has been conducted, due to the fact that this case was only recently filed and removed. Additionally, Plaintiffs have not had the opportunity to take the deposition testimony of any corporate representative of the Defendant relating to the issues raised in the Defendant's motion. Without this critical information, Plaintiffs cannot adequately oppose Defendant's Motion. ¹

¹ See Affidavit of Counsel.

Wherefore, premises considered, Plaintiffs respectfully request that this Court deny the Defendant's Motion for Summary Judgment or continue to the hearing for Summary Judgment until proper and adequate discovery can be had.

/s/ C. Gibson Vance
C. Gibson Vance (ASB-1923-N77C)

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following.

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